

1 INTERIM STUDY PROPOSAL 2023-118

2 State of Arkansas

3 94th General Assembly

4 Third Extraordinary Session, 2024

JLL/JLL

SJR

5
6 By: Senator B. King

7 Filed with: Senate Committee on State Agencies and Governmental Affairs

8 pursuant to A.C.A. §10-3-217.

9 **SENATE JOINT RESOLUTION**

10 AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO AMEND
11 CONSTITUTIONAL PROVISIONS CONCERNING APPORTIONMENT;
12 AND TO CREATE THE ARKANSAS APPORTIONMENT COMMISSION
13 TO APPORTION DISTRICTS FOR THE HOUSE OF
14 REPRESENTATIVES, THE SENATE, AND THE UNITED STATES
15 HOUSE OF REPRESENTATIVES.

16
17
18 **Subtitle**

19 A CONSTITUTIONAL AMENDMENT TO CREATE THE
20 ARKANSAS APPORTIONMENT COMMISSION TO
21 APPORTION DISTRICTS FOR THE HOUSE OF
22 REPRESENTATIVES, THE SENATE, AND THE
23 UNITED STATES HOUSE OF REPRESENTATIVES.

24
25
26 BE IT RESOLVED BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE
27 STATE OF ARKANSAS, AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL
28 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

29
30 THAT the following is proposed as an amendment to the Constitution of
31 the State of Arkansas, and upon being submitted to the electors of the state
32 for approval or rejection at the next general election for Representatives
33 and Senators, if a majority of the electors voting thereon at the election
34 adopt the amendment, the amendment shall become a part of the Constitution of
35 the State of Arkansas, to wit:

1 SECTION 1. Arkansas Constitution, Article 5, § 29, is amended to read
2 as follows:

3 § 29. Appropriations.

4 Except as provided in Arkansas Constitution, Article 8, § 8, and
5 Article 19, § 31, no money shall be drawn from the treasury except in
6 pursuance of specific appropriation made by law, the purpose of which shall
7 be distinctly stated in the bill, and the maximum amount which may be drawn
8 shall be specified in dollars and cents; and no appropriations made by the
9 General Assembly after December 31, 2008, shall be for a longer period than
10 one (1) fiscal year.

11
12 SECTION 2. Arkansas Constitution, Article 8, § 1, is amended to read
13 as follows:

14 § 1. Board of ~~apportionment~~ Apportionment created – Powers and
15 duties.

16 (a) A ~~Board~~ board to be known as "The Board of Apportionment",
17 consisting of the Governor (who shall be ~~Chairman~~ Chair), the Secretary of
18 State, and the Attorney General, is hereby created, and it shall be its
19 imperative duty to ~~make~~ approve the apportionment of ~~representatives~~ Senators
20 and Representatives of the General Assembly and Representatives of the United
21 States House of Representatives from the State of Arkansas in accordance with
22 the provisions hereof; ~~the~~. The action of a majority in each instance shall
23 be deemed the action of said board.

24 (b) The members of the board shall appoint members to the Arkansas
25 Apportionment Commission as provided in this article and approve or reject
26 reports issued by the commission.

27
28 SECTION 3. Arkansas Constitution, Article 8, § 2, is amended to read
29 as follows:

30 § 2. ~~One hundred members in~~ House of Representatives districts –
31 ~~Apportionment~~ One hundred members of House of Representatives.

32 ~~The House of Representatives shall consist of one hundred members and~~
33 ~~each county existing at the time of any apportionment shall have at least one~~
34 ~~representative; the remaining members shall be equally distributed (as nearly~~
35 ~~as practicable) among the more populous counties of the State, in accordance~~
36 ~~with a ratio to be determined by the population of said counties as shown by~~

1 ~~the Federal census next preceding any apportionment hereunder~~ The House of
 2 Representatives shall consist of one hundred (100) members. Subject to the
 3 approval of the Board of Apportionment, the Arkansas Apportionment Commission
 4 shall divide the State into one hundred (100) House of Representatives
 5 districts as provided in this article. The districts shall have an equal
 6 population, or as nearly equal as practicable, in accordance with the
 7 population of the State as shown by the federal decennial census next
 8 preceding any apportionment under this article.

9
 10 SECTION 4. Arkansas Constitution, Article 8, § 3, is amended to read
 11 as follows:

12 § 3. Senatorial districts – Thirty-five members of Senate.

13 ~~The Senate shall consist of thirty-five members. Senatorial districts~~
 14 ~~shall at all times consist of contiguous territory, and no county shall be~~
 15 ~~divided in the formation of such districts. "The Board of Apportionment"~~
 16 ~~hereby created shall, from time to time, divide the state into convenient~~
 17 ~~senatorial districts in such manner as that the Senate shall be based upon~~
 18 ~~the inhabitants of the state, each senator representing, as nearly as~~
 19 ~~practicable, an equal number thereof; each district shall have at least one~~
 20 ~~senator~~ The Senate shall consist of thirty-five (35) members. Subject to the
 21 approval of the Board of Apportionment, the Arkansas Apportionment Commission
 22 shall divide the State into thirty-five (35) Senate districts as provided in
 23 this article. The districts shall have an equal population, or as nearly
 24 equal as practicable, in accordance with the population of the State as shown
 25 by the federal decennial census next preceding any apportionment under this
 26 article.

27
 28 SECTION 5. Arkansas Constitution, Article 8, § 4, is amended to read
 29 as follows:

30 § 4. Duties of Arkansas Apportionment Commission and Board of
 31 Apportionment.

32 ~~On or before February 1 immediately following each Federal~~ federal
 33 decennial census, ~~said board~~ the Arkansas Apportionment Commission shall
 34 reapportion the State for Representatives to the House of Representatives,
 35 Senators to the Senate, and Representatives to the United States House of
 36 Representatives. The commission shall issue a report to the Board of

1 Apportionment, which shall either accept or reject the report. If the board
 2 accepts the report, and in each instance said the board shall file ~~its~~ the
 3 report with the Secretary of State, setting forth (a) the basis of population
 4 adopted for ~~representatives~~ Representatives to the House of Representatives,
 5 Senators to the Senate, and Representatives to the United States House of
 6 Representatives; and (b) the number of Representatives to the House of
 7 Representatives and Senators to the Senate assigned to each county;
 8 ~~whereupon, after 30.~~ After thirty (30) days from such filing date, the
 9 apportionment thus made shall become effective unless proceedings for
 10 revision be instituted in the Supreme Court within said period.

11

12 SECTION 6. Arkansas Constitution, Article 8, § 5, is amended to read
 13 as follows:

14 § 5. Mandamus to compel Arkansas Apportionment Commission and Board of
 15 Apportionment to act.

16 Original jurisdiction (to be exercised on application of any citizens
 17 and taxpayers) is hereby vested in the Supreme Court ~~of the State~~ (a) to
 18 compel (by mandamus or otherwise) the ~~board~~ Arkansas Apportionment Commission
 19 and the Board of Apportionment to perform ~~its~~ their duties as here directed,
 20 ~~and~~ (b) to revise any arbitrary action of or abuse of discretion by the
 21 commission or the board in making such apportionment, and (c) to reapportion
 22 the State for Representatives to the House of Representatives, Senators to
 23 the Senate, and Representatives to the United States House of Representatives
 24 if the report of the commission is rejected three (3) times by the board;
 25 provided any such application for revision or reapportionment shall be filed
 26 with ~~said the~~ Supreme Court within ~~30~~ thirty (30) days after the ~~filing~~
 27 acceptance or the third rejection of the report of apportionment by said
 28 board ~~with the Secretary of State;~~ if revised or reapportioned by the court,
 29 a certified copy of its judgment shall be by the clerk thereof forthwith
 30 transmitted to the Secretary of State, and thereupon be and become a
 31 substitute for the apportionment made by the commission and the board.

32

33 SECTION 7. Arkansas Constitution, Article 8, is amended to add
 34 additional sections to read as follows:

35 § 7. United States House of Representatives districts.

1 Subject to the approval of the Board of Apportionment, the Arkansas
2 Apportionment Commission, as provided in this article, shall divide the state
3 into the number of United States House of Representatives districts required
4 by federal law. The districts shall have an equal population, or as nearly
5 equal as practicable, in accordance with the population of the State as shown
6 by the federal decennial census next preceding any apportionment under this
7 article.

8
9 § 8. Arkansas Apportionment Commission – Creation.

10 (a) There is created the Arkansas Apportionment Commission.

11 (b)(1) The commission shall consist of nine (9) members.

12 (2) Three (3) members of the commission shall be appointed by
13 the Governor, three (3) members of the commission shall be appointed by the
14 Secretary of State, and three (3) members of the commission shall be
15 appointed by the Attorney General.

16 (3) Of the nine (9) members of the commission:

17 (A) At least one (1) member shall be educated in the field
18 of mathematics;

19 (B) At least one (1) member shall be an attorney who is
20 licensed to practice in this state; and

21 (C) At least one (1) member shall be competent in the
22 field of computer-assisted cartography.

23 (c) Each member of the commission shall be appointed on or before
24 January 15 immediately following each federal decennial census and shall
25 serve a term of ten (10) years with each term beginning on the January 15
26 immediately following the federal decennial census and ending on January 14
27 immediately following the next occurring federal decennial census.

28 (d) A vacancy on the commission shall be filled in the manner of the
29 original appointment for the remainder of the term.

30 (e) Five (5) members of the commission shall constitute a quorum for
31 the purpose of transacting business.

32 (f) A majority vote of the total membership of the commission is
33 required for any action of the commission.

34 (g) The office of the Secretary of State shall provide staff
35 assistance as may be requested by the commission.

36 (h) Each member of the commission shall:

1 (1) Be a registered voter of the State;

2 (2) Not be a registered lobbyist, an employee of a registered
3 lobbyist, an elected official, an appointed federal or state official, an
4 officer or employee of a political party, an officer or employee of a
5 political campaign committee, or an officer or employee of a political action
6 committee;

7 (3) Not have served in any of the positions listed in
8 subdivision (h)(2) of this section within three (3) years of the date of his
9 or her appointment to the commission; and

10 (4) Not be, by blood or marriage, the spouse, child, parent, or
11 sibling of a person in any of the positions listed in subdivision (h)(2) of
12 this section.

13 (i) A member of the commission shall not campaign for elected office
14 or actively participate in or contribute to the campaign of a person running
15 for a state or federal elected office during his or her term of office or for
16 two (2) years after his or her term of office.

17 (j)(1) The commission, during its first meeting following each federal
18 decennial census, may authorize payment to its members of a stipend not to
19 exceed eighty-five dollars (\$85.00) per day for each meeting attended or for
20 any day while performing any proper business of the commission.

21 (2) Stipends shall be paid by the Auditor of State from funds
22 available for that purpose.

23 (3) Members of the commission shall receive no other
24 compensation, expense reimbursement, or in-lieu-of payments for their service
25 on the commission.

26 (k) In addition to taking and subscribing to the oath under Arkansas
27 Constitution, Article 19, § 20, each member of the commission shall take and
28 subscribe to an oath of affirmation that his or her official decisions will
29 be based on the values of political neutrality and the public interest and
30 not on any attempt to further the interests of any particular private person,
31 private interest, or political party.

32 (1)(1) The commission shall be entitled to funding in amounts
33 sufficient to discharge the commission's duties under this article.

34 (2)(A) The General Assembly shall appropriate the amount
35 necessary for the commission to accomplish the commission's duties under this
36 article for:

1 (i) The fiscal year in which the federal decennial
2 census is performed; and

3 (ii) The fiscal year immediately following the
4 federal decennial census.

5 (B) The total amount under subdivision (1)(2)(A) of this
6 section shall not be less than seven hundred fifty thousand dollars
7 (\$750,000).

8 (3) If the commission requires funds to discharge the
9 commission's duties under this article before the convening of a legislative
10 session in which the General Assembly can appropriate funds for the
11 commission, the commission is entitled to and shall receive funds from the
12 Constitutional Officers Fund or its successor fund in the amount necessary to
13 discharge the commission's duties under this article until the General
14 Assembly appropriates funds for the commission.

15 (m) A person appointed to serve on the commission may be appointed to
16 serve subsequent terms on the commission.

17 (n) The commission is subject to the Freedom of Information Act of
18 1967, Arkansas Code § 25-19-101 et seq.

19 (o)(1) The commission shall retain all records related to
20 reapportioning the State for Representatives to the House of Representatives,
21 Senators to the Senate, and Representatives to the United States House of
22 Representatives, including without limitation all communications received by
23 members of the commission and the commission's staff regarding how the State
24 should be reapportioned for Representatives, Senators, United States
25 Representatives, or any combination of Representatives, Senators, and United
26 States Representatives.

27 (2) If a member of the commission or a member of the
28 commission's staff receives a verbal communication regarding how the State
29 should be reapportioned for Representatives, Senators, United States
30 Representatives, or any combination of Representatives, Senators, and United
31 States Representatives, the member or staff of the commission shall document
32 the verbal communication in writing.

33
34 § 9. Powers and duties of Arkansas Apportionment Commission – Approval
35 by Board of Apportionment.

1 (a)(1)(A) On or before February 1 immediately following each federal
2 decennial census, the Arkansas Apportionment Commission shall convene to
3 reapportion the State for Representatives, Senators, and United States
4 Representatives.

5 (B) If the population information resulting from the
6 federal decennial census is not available on February 1 immediately following
7 a federal decennial census, the commission shall convene to reapportion the
8 State for Representatives, Senators, and United States Representatives as
9 soon as practicable.

10 (2) The Governor shall call the first meeting of the commission
11 following each federal decennial census.

12 (3) The commission shall elect a chair and other officers it
13 deems necessary at its first meeting following each federal decennial census.

14 (b) When reapportioning the State for Representatives, Senators, and
15 United States Representatives, the commission shall consider the following
16 criteria in the order stated in this subsection:

17 (1) Population equality;

18 (2) Any applicable federal civil rights laws;

19 (3) Contiguity;

20 (4) Avoiding the division of cities and counties;

21 (5) Avoiding the division of school districts;

22 (6) Compactness;

23 (7) Avoiding the division of areas marked by geographical
24 features such as mountains or rivers; and

25 (8) The drawing of House of Representatives districts wholly
26 within Senate districts.

27 (c) Unless otherwise required by law, the commission shall not
28 consider any factors not identified in subsection (b) of this section when
29 reapportioning the State for Representatives to the House of Representatives,
30 Senators to the Senate, and Representatives to the United States House of
31 Representatives, including without limitation:

32 (1) Political affiliation of residents;

33 (2) Previous election results;

34 (3) Residence of an incumbent elected official;

35 (4) Communities of interest; or

36 (5) Any demographic information other than population.

1 (d)(1) The commission shall issue reapportionment maps as provided in
2 this section.

3 (2) The commission shall establish multiple methods for the
4 public to provide comments and propose alternative reapportionment maps for
5 consideration by the commission.

6 (e)(1) The commission shall conduct at least one (1) hearing in each
7 congressional district and shall publicly release at least three (3)
8 different reapportionment maps for all state and federal districts for public
9 comment at least thirty (30) days before the first hearing.

10 (2) If the commission revises a reapportionment map after the
11 reapportionment map has been publicly released under subdivision (e)(1) of
12 this section, the revised reapportionment map shall be publicly released at
13 least thirty (30) days before a final vote on adoption of the revised
14 reapportionment map by the commission.

15 (f)(1) The commission shall prepare a report and submit the report to
16 the Board of Apportionment.

17 (2) The report shall include:

18 (A) The basis of population adopted for Representatives,
19 Senators, and United States Representatives; and

20 (B) The number of Representatives and Senators assigned to
21 each county.

22 (3)(A) The board may choose to:

23 (i) Accept the report; or

24 (ii) Reject the report and request that the
25 commission make revisions.

26 (B) The board may reject the report no more than three (3)
27 times.

28 (g) If the board rejects the report of the commission three (3) times,
29 the apportionment shall be made by the Supreme Court following the
30 requirements under subsections (b) and (c) of this section.

31
32 Section 8. EFFECTIVE DATE. This amendment is effective on and after
33 January 1, 2027.

1 Section 9. BALLOT TITLE AND POPULAR NAME. When this proposed
2 amendment is submitted to the electors of this state on the general election
3 ballot:

4 (1) The title of this Joint Resolution shall be the ballot
5 title; and

6 (2) The popular name shall be “A Constitutional Amendment to
7 Amend Constitutional Provisions Concerning Apportionment and to Create the
8 Arkansas Apportionment Commission to Apportion Districts for the House of
9 Representatives, the Senate, and the United States House of Representatives.”

10
11
12 Referred by Senator B. King

13 Prepared by: JLL/JLL
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36